**HON'BLE SRI JUSTICE P.S. NARAYANA**

**Writ Petition No.4556 of 2005**

**Date: 16th November, 2006**

Between :-

Kola Kiran and another ..

Petitioners

And

Commissioner, Municipal Corporation,
Warangal and another ..
Respondents

**HON'BLE SRI JUSTICE P.S. NARAYANA**

**Writ Petition No.4556 of 2005**

**ORDER:-**

1. Heard Sri P. Prabhakar Reddy, the Counsel representing the writ petitioners and Sri Durga Nageshwar Rao, the learned standing Counsel representing respondents.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in interfering with the possession of the land in Sy.No.292 to an extent of Ac.0.27 gts., situated at Desaipet, Warangal is highly arbitrary, bad and illegal and pass such other suitable orders.

3. It is stated that the petitioners are the absolute owners and possessors of the land in Sy.No.292 to an extent of Ac.0.27 gts., situated at Desaipet, Warangal. It is also stated that the petitioners have purchased the said land under the registered sale deed dated 6-10-2004 for a consideration of Rs.26,13,600/- from the original owners and the original owners have got exemptions from the Urban Land Ceiling, Warangal since it is situated within the Urban Agglomeration. It is further stated that even before the purchase of the said land by the petitioners, the original owners have submitted application before the

Mandal Revenue Officer, to conduct survey and demarcate the land in Sy.No.292 to an extent of Ac.0.27 gts. It is further stated that as the Mandal Revenue Officer or the Surveyor did not take steps to conduct survey ad demarcate the land, the petitioners after purchase of the land requested the Mandal Revenue Officer and the Surveyor to conduct survey and demarcate the land. It is also further stated that on 14-10-2004 the Mandal Surveyor, Warangal Mandal has conducted survey and demarcated the land in Sy.No.292 to an extent of Ac.0.27 gts., and fixed the boundaries. It is further stated that in this regard the Mandal Surveyor and the Mandal Revenue Officer have conducted panchanama in the presence of panch witnesses and the said report was furnished to the petitioners as well as to the respondents. It is also stated that the owners of the land in Sy.No.290, 291 and 295 situated at Desaipet village have submitted layout in respect of the said land and pending approval of the layout the plots in the said land were sold out. It is further stated that the owners of the land in Sy.No.290, 291 and 295 have also made the park land as plots and sold out though they have shown park in the layout and then the respondents addressed a letter to the Mandal Revenue Officer, Warangal to demarcate the land in Sy.No.292, 293 and 295 to identify park land which were shown in the

layout submitted in respect of Sy.No.290, 291 and 295. It is also stated that with reference to the said letter addressed by the first respondent, the Mandal Revenue Officer again conducted survey and demarcated the land in Sy.No.292, 293 and 295 and fixed the boundaries to the said survey numbers and prepared a sketch map showing the boundaries. It is further stated that on 7-2-2005 the Mandal Revenue Officer send a report to the first respondent along with the sketch map enclosing to the report and as per the report, the land in Sy.No.292 to an extent of Ac.0.27 gts., were demarcated and fixed the boundaries and the said land was shown to the petitioners as their land and they are cleaning the land by removing bushes with a view to put up compound wall. It is also further stated in para 4 of the affidavit filed in support of the Writ Petition that while so the respondents authorities have come to the spot and prevented the petitioners from doing activity in their land and the respondents authorities are interfering with the possession of the petitioners stating that the said land is a park land. It is also stated that in fact the Mandal Revenue Officer and Mandal Surveyor have already conducted on 14-10-2004 and also 7-2-2005 and on both the occasions the land was identified as Sy.No.292 to an extent of Ac.0.27 gts., and

fixed the boundaries and the said reports were also sent to the first respondent. It is further stated that inspite of it, the respondents and its authorities are interfering with the possession of the petitioners overlooking the survey reports and boundaries fixed by the Survey Department. It is also further stated that now the respondents are making efforts to convert the petitioners' land in Sy.No.292 to an extent of Ac.0.27 gts., into park. It is also further stated that the land in Sy.No.292 to an extent of Ac.0.27 gts., is a patta land and the same was demarcated by the Survey Department twice on 14-10-2004 and 7-2-2005 and the respondents have no authority to treat the petitioners' land in Sy.No.292 to an extent of Ac.0.27 gts., as park land. It is also stated that the acts of the respondents in interfering with the possession of the land of the petitioners' cannot be prevented without the order of this Court as the respondents are high handedly making efforts to convert the petitioners' land into park. It is further stated that the action of the respondents in interfering with the possession of the petitioners' land in Sy.No.292 to an extent of Ac.0.27 gts., is highly arbitrary, bad and illegal. In such circumstances, the present Writ Petition is filed.

4. In the counter affidavit filed by respondents 1 and 2 specific stand is taken that they do not know about the ownership and possession of the petitioners' land in

Sy.No.292 to an extent of Ac.0.27 gts., situated at Deshaipet (v), Warangal and that they purchased the same by virtue of a registered sale deed from the original owners. It is also stated that it is true that the owners of the land in Sy.No.s 290, 291 and 295 situated at Desaipet (v) have submitted layout through the Secretary, Navayuga Cooperative Housing Society for sanction of layout in the above said survey numbers and it was approved by the Director of Town and Country Planning, Hyderabad vide layout No.302/82 in the name of Navayuga Cooperative Housing Society and in this layout, as per layout conditions, the owners have reserved open place for park/public use. It is also stated that recently some persons were trying to grab the park land, the same was informed by the local people through phone calls and then the officials of the respondents have taken steps for safeguarding the property and to construct compound wall. It is further stated that it is true that the Mandal Revenue Officer, Warangal conducted the survey regarding Sy.No.292 and demarcated the boundaries and as per the said survey the land in Sy.No.292 separated from the layout No.302/82 and the open place or park place which is earmarked in this layout. It is also further stated that the petitioners are trying to occupy the park

land without having any manner of right or title over the said park land, then the officials of the respondents resisted the illegal attempts of the petitioners and their followers and protecting the park site in larger interest of the public. It is also further stated that the allegations of the petitioners that the respondent authorities came to the petitioners land, prevented them and interfered with their rightful possession stating that the said land belongs to park had been denied. It is also stated that it is true that the Mandal Revenue Officer surveyed the said land but the said land in Sy.No.292 is adjacent to the land in layout No.302/82 and as such the respondents authorities protected the park land in the layout site only but not the land of the petitioners in Sy.No.292. Certain further allegations also had been averred in pars 6, 7 and 8 of the counter affidavit.

5. In the light of the specific stand taken by the respondents in the counter affidavit that they had never gone to the subject matter and had never disturbed the possession of the petitioners, this Court is of the considered opinion that the Writ Petition be disposed of directing the respondents not to interfere with the possession of the land in Sy.No.292 to an extent of Ac.0.27 gts., of the petitioners. With the above direction, the Writ Petition is disposed of. No order as to costs.

Justice P.S.Narayana

16th November, 2006

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